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| 09/741,618      | 12/18/2000  | Juan C. Alvarado     | 59.0038             | 5812             |

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EXAMINER

LEZAK, ARRIENNE M

| ART UNIT | PAPER NUMBER |
|----------|--------------|
|----------|--------------|

2143

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DATE MAILED: 05/07/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/741,618

Applicant(s)

ALVARADO ET AL.

Examiner

Arrienne M. Lezak

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 May 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 6 & 8.
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_.

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-4 and 6-24 are rejected under 35 U.S.C. 102(e) as being anticipated by US Patent US 6,519,568 B1 to Harvey.

The applied reference has a common inventor and assignee with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 102(e) might be overcome either by a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not the invention "by another," or by an appropriate showing under 37 CFR 1.131.

3. Regarding Claims 1, 13, 15, 19, 23 and 24, Harvey discloses a system, method and computer-readable code for near real-time transfer of a datafile from a first computer to a second computer, (Abstract; Col. 3-7; and Col. 27-34), comprising:

a first computer having:

- a connection to a computer network and operable to communicate over the computer network using a standard protocol, (Col. 4, lines 66-67 and Col. 5, lines 1-8);
  - a server side script operable to receive download requests from a second computer and, responsive to each download request from the second computer, operable to launch an httpstreamproducer and to read and write data over the computer network using the standard protocol, (Col. 3, lines 36-42; Col. 24, lines 60-67; and Col. 25, lines 1-6);
  - each httpstreamproducer operable to read a designated source file and simultaneously write data from the source file into a return-data-buffer connected to the server-side script, (Col. 3, lines 53-60);
  - a read-while-write mechanism allowing the httpstreamproducer to read data from the designated source file while the designated source file is being written by a data producing program, (Col. 3, lines 53-60 and Col. 25, lines 14-56);
  - wherein the server side script is further operable to transmit blocks of data from the plurality of httpstreamproducers over the connection, (Col. 3, lines 53-60; Col. 24, lines 60-67; and Col. 25, lines 1-6); and
- a second computer havng:
- a connection to the computer network and operable to communicate over the computer network using the standard protocol, (Col. 4, lines 66-67 and Col. 5, lines 1-8);

- a transaction controller operable to send data to and receive data from the server side script, and further operable to marshall the data to an appropriate transaction handler, (Col. 3, lines 42-48 and Col. 5, lines 20-35); and
- a transactions handler class, each instance of which is operable to read and write data over the computer network using the standard protocol and to write blocks of data to a destination file simultaneously with receiving data from the computer network, (Col. 5, lines 20-67 and Col. 6, lines 1-13).

Therefore, this reference may reasonably be read to teach or describe every element or claim limitation of Claims 1, 13, 15, 19, 23 and 24.

4. Regarding Claims 2, 8, 17 and 18, Harvey discloses a system, method and computer-readable code wherein

the first computer further comprises:

- a webserver for transmitting a webpage containing a list of files for download by other computers, (Col. 4, lines 61-65 and Col. 28, lines 31-39);

the second computer further comprises:

- a webbrowser for displaying the webpage containing the list of files available for download, (Col. 20, lines 52-60; Fig. 16; and Col. 21, lines 44-49); and

- a trusted applet operable, in response to a user selecting a file from the list, to create a transaction controller instance operable to manage a plurality of file transfer threads, wherein in each file transfer thread, in response to the request from a user to download a file, the transaction controller instance is operable to create a transaction handler instance for receiving data from the first computer, (Col. 3, lines 42-48; Col. 5, lines 20-48; Col. 19, lines 59-67; Col. 20, lines 1-50);

Therefore, this reference may reasonably be read to teach or describe every element or claim limitation of Claims 2, 8, 17 and 18.

5. Regarding Claims 3 and 9, Harvey discloses a system, method and computer-readable code wherein the second computer further comprises:

at least one stream handler class having at least one file interaction method for performing a file operation selected from the set creating a file, opening a file and writing to a file, (Col. 24, lines 60-67 and Col. 25, lines 1-37); and

wherein the transaction handler instance creates a stream handler instance appropriate for the file selected by the user, (Col. 24, lines 60-67 and Col. 25, lines 1-37). Therefore, this reference may reasonably be read to teach or describe every element or claim limitation of Claims 3 and 9.

6. Regarding Claim 4, Harvey discloses a system, method and computer-readable code wherein the standard protocol is http, (Col. 5, lines 5-8). Therefore, this reference may reasonably be read to teach or describe every element or claim limitation of Claim 4.

7. Regarding Claims 10-12, 20 and 22, Harvey discloses a system, method and computer-readable code wherein the destination is a data file, (per pending Claims 10 & 20), (Col. 25, lines 33-36), an application program that is a data consumer, (per pending Claim 11), (Col. 4, lines 45-55), or a database, (per pending Claims 12 & 22), (Col. 4, lines 56-60). Therefore, this reference may reasonably be read to teach or describe every element or claim limitation of Claims 10-12, 20 and 22.

8. Regarding Claim 6, Harvey discloses a system, method and computer-readable code wherein the server-side script implements an http GET command and the download request is an invocation of the http GET command of the server-side script, (Col. 5, lines 5-8). Therefore, this reference may reasonably be read to teach or describe every element or claim limitation of Claim 6.

9. Regarding Claim 7, Harvey discloses a system, method and computer-readable code further comprising an httpStreamProducer class and wherein the httpStreamProducer is an instance of the httpStreamProducer class, (Col. 3, lines 60-67 and Col. 28, lines 31-55). Therefore, this reference may reasonably be read to teach or describe every element or claim limitation of Claim 7.

10. Regarding Claim 14, Harvey discloses a system, method and computer-readable code wherein the server side script is an Active Server Pages script, (Col. 24, lines 60-67 and Col. 25, lines 1-43). Therefore, this reference may reasonably be read to teach or describe every element or claim limitation of Claim 14.

11. Regarding Claims 16 and 21, Harvey discloses a system, method and computer-readable code further comprising launching an application on the client-side wherein

blocks of data are transferred upon receipt of the same, (Col. 4, lines 45-55).

Therefore, this reference may reasonably be read to teach or describe every element or claim limitation of Claims 16 and 21.

***Claim Rejections - 35 USC § 103***

12. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

13. Claim 5 is rejected under 35 U.S.C. 103(a) as being obvious over further consideration of US Patent US 6,519,568 B1 to Harvey. Harvey is relied upon for those teachings disclosed herein.

The applied reference has a common inventor and assignee with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art only under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 103(a) might be overcome by: (1) a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not an invention "by another"; (2) a showing of a date of invention for the claimed subject matter of the application which corresponds to subject matter disclosed but not claimed in the reference, prior to the effective U.S. filing date of the reference under 37 CFR 1.131; or (3) an oath or declaration under 37 CFR 1.130 stating that the application and reference are currently owned by the same party and that the inventor named in the



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application is the prior inventor under 35 U.S.C. 104, together with a terminal disclaimer in accordance with 37 CFR 1.321(c). For applications filed on or after November 29, 1999, this rejection might also be overcome by showing that the subject matter of the reference and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person. See MPEP § 706.02(I)(1) and § 706.02(I)(2).

14. Regarding Claim 5, as noted herein above, Harvey discloses a system, method and computer-readable code wherein the standard protocol is http. Harvey does not specifically enumerate the use of WAP as a standard protocol. To implement WAP within the Harvey invention would have been obvious to one of ordinary skill in the art at the time of invention by Applicant as Harvey utilizes application protocols, WAP is a application protocol, and thus Harvey obviously could have used WAP in addition to or instead of http. Thus, Claim 5 is unpatentable over further consideration of Harvey.

15. Claims 1, 13, 15, 19, 23 and 24 are further rejected under 35 U.S.C. 103(a) as being obvious over further consideration of US Patent 6,152,246 to King.

16. Regarding Claims 1, 13, 15, 19, 23 and 24, King discloses a system, method and computer-readable code for near real-time transfer of a datafile from a first computer to a second computer, (Abstract), comprising:

a first computer having:

- a connection to a computer network and operable to communicate over the computer network using a standard protocol, (Fig. 2; Col. 4, lines 61-67; Col. 5, lines 1-22; and Col. 8, lines 10-23);

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- a server side script operable to receive download requests from a second computer and, responsive to each download request from the second computer, and to read and write data over the computer network using the standard protocol, (Fig. 2; Col. 4, lines 61-67; Col. 5, lines 1-22; and Col. 8, lines 10-23);
  - operable to read a designated source file and simultaneously write data from the source file into a return-data-buffer connected to the server-side script, (Fig. 2; Col. 4, lines 61-67; Col. 5, lines 1-22; and Col. 8, lines 10-23);
  - a read-while-write mechanism allowing the reading of data from the designated source file while the designated source file is being written by a data producing program, (Fig. 2; Col. 4, lines 61-67; Col. 5, lines 1-22; and Col. 8, lines 10-23);
  - wherein the server side script is further operable to transmit blocks of data from various information streams over the connection, (Fig. 2; Col. 4, lines 61-67; Col. 5, lines 1-22; and Col. 8, lines 10-23); and
- a second computer havng:
- a connection to the computer network and operable to communicate over the computer network using the standard protocol, (Fig. 2; Col. 4, lines 61-67; Col. 5, lines 1-22; and Col. 8, lines 10-23); and
  - a monitoring capability, (Col. 8, lines 16-49).

17. King does not specifically enumerate the use of an http protocol, (and therefore a default httpstreamproducer), however, incorporation of the same within King would have been obvious to one of ordinary skill in the art at the time of invention by Applicant as King discloses the use of a computer network capable of a simultaneous graphical representation, (Col. 2, lines 13-54), within a Windows environment, (Col. 5, line 11). As the Internet is a network, and http a standard protocol, use of the same would obviously improve the ability to simultaneously transfer information on a global basis. Moreover, as Windows operating systems include Internet (http) access capabilities, in operating within a Windows environment, King would have obviously used such default (http) means for information transfer upon the Internet.

18. King does not specifically teach the use of a transaction controller for purposes of marshalling and monitoring data distribution and processing, however, as noted above, King does teach a monitoring capability for purposes of alarm notification. Moreover, King teaches a user selection method for access information, wherein such user choices are carried to conclusion, (production of information), within the system. Examiner believes that an obvious and necessary transaction monitor-like means is found within the King system whereby the user sets operating limits, which when enabled, allows the system to monitor the drilling parameters and produce an alarm when said parameters are exceeded. To incorporate the same-type transaction monitoring means for purposes of data distribution and processing would have been obvious as a system capable of data monitoring for one purpose would obvious be capable of data monitoring for other purposes.

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19. Thus, Claims 1, 13, 15, 19, 23 and 24 are found to be unpatentable over further consideration of the teachings of King.

### ***Double Patenting***

20. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

21. Claims 1-24 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-84 of U.S. Patent No US 6,519,568. Although the conflicting claims are not identical, they are not patentably distinct from each other. Examiner notes that with the exception of obvious differences, Independent Claims 1, 13, 15, 19, 23 and 24 from pending Application 09/741,618 are the same as Independent Claims 1, 37, 60, 82 and 83 of US Patent US 6,519,568 B1. Such differences include but are not limited to the specific processing of oilfield data, ('568), as opposed to the processing of data generally, ('618).

22. Examiner further rejects all dependant Claims as being literally identical or identical in nature, meaning and intent so as to be obviously identical. Moreover,

considering the extreme unmistakable similarities, Examiner is puzzled as to why Applicant did not make reference to the Harvey ('568) patent within any part of the current application.

***Conclusion***

23. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

US Patent Pub. US 2002/0065918 A1 to Shastri

"Building a Global Highway for Oilfield Data", Clark, et al., Oilfield Review, October 1993, p.32.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Arrienne M. Lezak whose telephone number is (703)-305-0717. The examiner can normally be reached on M-F 8:30-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David A. Wiley can be reached on (703)-308-5221. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Arrienne M. Lezak  
Examiner  
Art Unit 2143

AML



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